

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mike Sorensen et al,

No. 12-cv-3130 (MJD/LIB)

Plaintiffs,

v.

REPORT AND RECOMMENDATION

Ownit Mortgage Solutions, Inc.,

Defendant.

This matter came before the undersigned United States Magistrate Judge upon the routine supervision of cases and upon an assignment made in accordance with 28 U.S.C. 636(b)(1)(A). Mike Sorensen and David Wynn Miller (collectively, “Plaintiffs”) commenced this action on December 18, 2012. (Compl. [Docket No. 1]).

It has now been more than 120 days since Plaintiffs filed this action, and Plaintiffs have not provided proof that they have served a copy of the summons and complaint on Defendant. See Fed. R. Civ. Pro. 4(m) (“If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”). Therefore, pursuant to the provisions of Rule 4(m), the Court recommends that this action be dismissed for failure to effect proper service and failure to prosecute unless Plaintiffs, within the 14-day deadline to object to this Report and Recommendation, can provide proof of service or show good cause for an extension of time to serve Defendant.

Based upon the above, and upon all the files, records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. That Plaintiffs’ Complaint [Docket No. 1] be **DISMISSED WITHOUT**

PREJUDICE, for failure to effect service and for lack of prosecution, unless Plaintiffs, within the 14-day deadline to object to this Report and Recommendation, can provide proof of service or show good cause for an extension of time to serve Defendant.

Dated: April 29, 2013

s/Leo I. Brisbois
LEO I. BRISBOIS
United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties **by May 13, 2013**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Court of Appeals.